instead. The Commission therefore concludes that, now that the 5-month phase-in period has expired, Ameritech Michigan must abide by the dialing parity conversion schedule established by the February 24, 1994, July 19, 1994, and March 10, 1995 orders." *Id.* at 14. The Commission also stated that the 55% discount should remain at its previously established level.

On July 9, 1996, Ameritech filed a motion for stay, motion for rehearing, and a motion for reopening of the record. On October 7, 1996, the Commission denied Ameritech's motions. Ameritech bases its preliminary injunction claim in this Court on two propositions: (1) that the Commission's Order was preempted by the Federal Telecommunications Act and (2) that Ameritech has a constitutionally protected liberty interest in having §312 of the Michigan Telecommunications Act interpreted in its favor.

Analysis

This court has subject matter jurisdiction in this case because the plaintiff claims that the Federal Telecommunications Act preempts the Commission's June 26, 1996 Order. A federal court has subject matter jurisdiction when a party seeks an injunction of a state administrative agency's order under a claim of preemption. *Alltel Tennessee v. Tennessee Public Service Com'n*, 913 F.2d 305, 308 (6th Cir. 1990). The next inquiry is whether this Court should exercise jurisdiction in this case.

The Supreme Court has acknowledged that it is the duty of the federal courts to exercise jurisdiction that is conferred

upon them by Congress. *Quackenbush v. Allstate Insurance Co.*, 517 U.S. ___, 135 L.Ed.2d 1, 12 (1996) *(citing Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 821, (1976)). "This duty is not, however, absolute." *Quackenbush*, 135 L Ed 2d at 13 *(citing Canada Malting Co. v. Paterson S. S., Ltd.*, 285 U.S. 413, 422 (1932)). The Supreme Court has "carefully defined ... the areas in which such 'abstention' is permissible, and it remains 'the exception, not the rule.'" *New Orleans Public Service, Inc. v. Council of the City of New Orleans*, 491 U.S. 350, 359, (1989) *(citing Hawaii Housing Authority v. Midkiff*, 467 U.S. 229, 236 (1984)).

One of the abstention doctrines used by the federal courts was introduced in *Burford v. Sun Oil Co.*, 319 U.S. 315 (1943). In *Burford*, the Court stated that it "is in the public interest that federal courts of equity should exercise their discretionary power with proper regard for the rightful independence of the state governments in carrying out their domestic policy." *Id.* 319 U.S. at 317.

In *New Orleans Public Service*, the Court summarized *Burford*.

> In *Burford v. Sun Oil Co.*, a Federal District Court sitting in equity was confronted with a Fourteenth Amendment challenge to the reasonableness of the Texas Railroad Commission's grant of an oil drilling permit. The constitutional challenge was of minimal federal importance, involving solely the question whether the commission had properly applied Texas' complex oil and gas conservation regulations. Because of the intricacy and importance of the regulatory scheme, Texas had created a centralized system of judicial review of commission orders, which 'permit[ted] the state courts, like the Railroad Commission itself, to acquire a specialized knowledge' of the state courts' review of the regulations and industry. We found the state courts' review of commission decisions 'expeditious and adequate,'

> and, because of the exercise of equitable jurisdiction by comparatively unsophisticated Federal District Courts alongside state-court review had repeatedly had led to '[d]elay, misunderstanding of local law, and needless federal conflict with state policy,' we concluded that 'a sound respect for the independence of state action requir[ed] the federal equity court to stay its hand.

New Orleans, 491 U.S. at 360 citations omitted.

The *Burford* doctrine has been further defined in other Supreme Court cases. In *Alabama Public Serv. Com'n v. Southern R. Co.*, 341 U.S. 341 (1951), the Southern Railway Company brought a Fourteenth Amendment Due Process action in federal district court to enjoin the members of the Alabama Public Service Commission and the Attorney General of Alabama from enforcing the laws of Alabama which prohibited discontinuance of certain railroad passenger services. *Id.* at 342. The Commission had denied the Railway's request to discontinue two lines. The Railway had the right to appeal the Commission decision to the circuit court of Montgomery County. *Id.* at 348. The Court stated that the federal court was being asked to decide on an "essentially local problem." *Id.* at 347. It concluded "[a]s adequate state court review of an administrative order based upon predominantly local factors is available to appellee, intervention of a federal court is not necessary for the protection of federal rights." *Id.* at 349.

In *New Orleans Public Service*, the Supreme Court spelled out the criteria for *Burford* abstention:

> Where timely and adequate state-court review is available, a federal court sitting in equity must decline to interfere with the proceedings or orders of state administrative agencies: (1) when there are "difficult

> questions of state law bearing on policy problems of substantial public import whose importance transcends the result in the case at bar"; or (2) where the "exercise of federal review of the question in a case and in similar cases would be disruptive of state efforts to establish a coherent policy with respect to a matter of substantial public concern."

New Orleans, 491 U.S. at 361; see also *Coalition for Health Concern v. LWD Inc.*, 60 F.3d 1188, 1194 (6th Cir. 1995).

In *Quackenbush*, the most recent Supreme Court case which discussed *Burford*, the Court stressed that the abstention decision must "reflect 'principles of federalism and comity.'" *Quackenbush* 135 L.Ed. 2d at 20. The court must balance the federal interests in retaining jurisdiction over the dispute and the competing concern for the "independence of state action." *Id.* The Court also explained that this balance only rarely favors abstention. *Id.* at 21.

I.

Abstention is appropriate under *New Orleans* and *Quakenbush*. First, Ameritech has an adequate and timely state remedy. MCL § 484.2203(7) states that, "[a]n order of the commission shall be subject to review as provided in section 26 of Act No. 300 of the Public Acts of 1909, being section 462.26 of the Michigan Compiled Laws." MCL §462.26 states "any common carrier or other party in interest, being dissatisfied with any order of the commission fixing any rate, or any order fixing any regulations, practices, or services, may within 30 days from the issuance and notice of that order file an appeal as of right in the court of appeals." Allowing Ameritech to appeal the Commission's Order

directly to the court of appeals is certainly a timely and adequate state remedy. . This is especially true in light of the fact that the basis of Ameritech's claim is actually a question of state law and state legislative intent.

Second, this is a difficult question of state law bearing on policy problems of substantial public importance, even transcending the results in the case at bar. The Federal Telecommunications Act and the discussion in the Congressional Record accompanying it clearly state that the exception in §271(e) was created for Michigan and nine other states. The key issue is whether Michigan did something to fall outside the exception expressly created for it by the FTA. This is a question of state law and state legislative intent regarding a state statute's effect on a number of state agency orders. This is not, as the plaintiff claims, a case which "does not require this Court to go beyond the four corners of the June 26, 1996 Order." This is similar to *Coalition for Health Concern*, where the Sixth Circuit stated that "plaintiff's claims do not and cannot arise in isolation from state law issues nor are they premised solely on alleged violations of federal law." 60 F.3d. at 1194.

The Michigan Telecommunications Act is a comprehensive statute which deals with the regulation of the telecommunications industry in Michigan among other things. The State has a significant interest in regulating this industry.

Under the Michigan Telecommunications Act, the Commission is granted a number of powers. It is given jurisdiction to administer the act, power to conduct investigations, hold hearings, issue findings and orders, and it is given control over various aspects of rates, local directory assistance, approval of license applications, amending geographical areas of a license, and discontinuance of a regulated service. See MCL. §§ 484.2207, .2208, .2302, .2303, .2304, .2306, .2310, .2312, .2313, .2316, and .2601. The Commission has extensive experience in the area of intraLATA dialing parity as demonstrated by its numerous hearings and opinions on the subject. If this court follows the plaintiff's invitation to exercise jurisdiction, this court would be intruding into regulation of an industry for which the Commission is particularly well suited. This Court also recognizes the potential problems of judicial management that would be part of issuing a decree in this matter. In *Ada-Cascade Watch Co. v. Cascade Resource Recovery*, 720 F.2d 897, 906 (6th Cir. 1983), the Sixth Circuit stated that "this court is ill-equipped to review state rules and regulations which have an entirely local effect. To do so would be unnecessary and a disruptive interference into the local affairs of the State of Michigan."

The confidence that Michigan has placed in the Commission is further demonstrated by the fact that Commission Orders can be directly appealed to the Michigan Court of Appeals. Ameritech has already exercised its appeal as a matter of right on

Commission Orders on intraLATA dialing parity. Ameritech has already appealed two Commission Orders to the Court of Appeals. See *GTE North v. Public Service Commission*, 215 Mich. App. 137 (1996). Ameritech is also in the process of appealing the March 10, 1995 and June 5, 1995 Orders to the Michigan Court of Appeals. Finally, Ameritech can still appeal the June 26, 1996 Order to the Michigan Court of Appeals.

Third, the exercise of federal review in this case would disrupt Michigan's effort to establish a coherent policy with respect to a matter of substantial public concern. The Michigan Public Service Commission has addressed the issue of intraLATA dialing parity a number of times since 1989. As stated above, the Michigan Court of Appeals has reviewed, is reviewing, and may review appeals from the Commission's Orders on intraLATA dialing parity. If this court reviews this order, which is based on state law interpretation, it could disrupt the regulatory scheme which the Commission and the Michigan Court of Appeals have adopted and are continuing to adopt.

Fourth, when the federal interest in retaining jurisdiction is balanced against Michigan's concern for the independence of state action, Michigan prevails. The Federal Government has spoken with regard to its interest in Michigan's regulation of its intraLATA toll market. Congress expressly exempted Michigan from the requirements of linkage between interLATA capabilities and intraLATA dialing parity.

Congress appreciated the State's recognition that dialing parity is a key to healthy competition for in-State toll calls,

and specifically determined that the States "should not be second-guessed and preempted on the Federal level." S8349 Congressional Record, Senate June 14, 1995.

The Congressional exemption for the 10 states with dialing parity requirements is similar to a federal statute that merely incorporates the laws of the various states. In such situations, if there is any doubt as to the proper meaning of the state statute, abstention is appropriate. *Brown v. First National City Bank*, 503 F.2d 114, 118 (2nd Cir. 1974).

The State has an overriding interest in the subject matter. This is evidenced by the fact that before the Federal Telecommunications Act was passed, Michigan Governor John Engler along with eight other governors wrote a letter to Thomas J. Bliley, Jr., the Chairman of the House of Representatives Commerce Committee, stating that "[a]ny amendment preempting the states on intraLATA toll dialing parity penalizes states that have implemented the very procompetitive policies the bill is intended to further....We respectfully urge you to oppose any amendment that preempts the states authority to order interLATA toll dialing parity."

When federal and state interests are balanced, Michigan's interest in having the issue adjudicated in a state forum is significantly greater than any interest the Federal government might have in this matter.

II.

A number of courts have evaluated the relationship between *Burford* abstention and a preemption claim. In *Neufield v. City of Baltimore*, 964 F.2d 347, 350 (4th Cir. 1992), *cert. denied*, 116 S. Ct. 1852 (1996), the court stated that "several circuits have emphasized that *Burford* abstention is particularly inappropriate when preemption issues are present." *But see Aluminum Co. v. Utilities Com'n of State of North Carolina*, 713 F.2d 1024, 1030 (4th Cir. 1983), *cert. denied*, 465 U.S. 1052 (1984).

There are three reasons courts have stated for not abstaining on a preemption claim. First, *Burford* abstention is inappropriate when federal law or the Constitution places the regulation at issue beyond the state's authority. *Neufield* at 350 (*citing Middle South Energy Inc. v. Arkansas Public Service Com'n*, 772 F.2d 404, 417 (8th Cir. 1985) *cert. denied*, 474 U.S. 1102 (1986)). The FTA has not placed this matter beyond the reach of Michigan. In fact, the FTA created an exception for Michigan and nine other states. The issue in this matter is whether Michigan did something to cause it to fall out of the exception created for it.

Second, courts have stated that a decision to abstain in preemption cases amounts to implicitly ruling on the merits. *International Brotherhood of Electrical Workers, Local Union No. 1245 v. Public Service Commission of Nevada*, 614 F.2d 206, 212 (9th Cir. 1980). Again, this is not the case in this matter. By finding it should abstain, this Court has not ruled implicitly or

explicitly on whether or not the Michigan Court of Appeals should uphold or reverse the Commission's Order.

Third, the Supreme Court has stated that abstention is inappropriate on a preemption claim when there is not "a state law claim nor even an assertion that the federal claims are 'in any way entangled in a skein of state-law that must be untangled before the federal case can proceed.'" *New Orleans* at 361 (*citing McNeese v. Board of Education for Community Unit School Dist., 187, Cahokia*, 373 U.S. 668 (1963)). This case is based upon a state law issue. The federal claims of the plaintiff are entangled in a skein of state law.

With regard to the relationship between abstention and preemption the Sixth Circuit has stated, "we do not see any reason to analyze abstention cases involving preemption claims differently than other abstention cases." *CSTX, Inc.. v. Pitz*, 883 F.2d 468, 472 (6th Cir. 1989), *cert. denied*, 494 U.S. 1030 (1990).

The Court in *CSTX* stated,

> It may be argued that state judges are somewhat more inclined to read state regulatory jurisdiction more broadly than federal judges... Even if it were true that state judges were less inclined to displace state regulatory jurisdiction than federal judges, this tendency is not sufficient reason to modify the doctrine of abstention by substituting federal for state judges in cases raising preemption issues.

Id. at 473.

Because this Court should abstain from this matter, the fact that Ameritech alleges that the FTA preempts the Commission's

Order will not cause this court to evaluate this matter any differently. Therefore, this Court finds that it should abstain from this matter, and an order of Abstention shall issue.

Dated: November 4, 1996

ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

AT&T COMMUNICATIONS OF MICHIGAN, INC., a Michigan corporation, and MCI TELECOMMUNICATIONS CORPORATION, a Delaware corporation,

Plaintiffs,

and MICHIGAN PUBLIC SERVICE COMMISSION and ATTORNEY GENERAL FRANK J. KELLEY,

Intervening Plaintiffs,

v

Case No. 96-84800 AW
Honorable William E. Collette

MICHIGAN BELL TELEPHONE CO., d/b/a AMERITECH MICHIGAN, a Michigan corporation,

Defendants.
_____/

ORDER GRANTING WRIT OF MANDAMUS

At a session of said
Court held in the
City of Lansing, Michigan
on this 20th day of November, 1996.

PRESENT: WILLIAM E. COLLETTE
Ingham County Circuit Court Judge

This matter having come for hearing pursuant to this Court's Order to show cause why a Writ of Mandamus should not be issued to enforce the orders of the Michigan Public Service Commission issued in MPSC Case No. U-10138, and the court having considered the briefs, affidavits, and arguments of the parties and being duly advised in the premises;

APPENDIX 5

Now therefore IT IS ORDERED AND ADJUDGED that the writ of mandamus requested be and hereby is issued for the reasons stated by the Court on the record on November 20, 1996;

IT IS FURTHER ORDERED AND ADJUDGED that Michigan Bell Telephone Company, d/b/a Ameritech Michigan (Ameritech) shall fully comply with the Michigan Public Service Commission's June 26, 1996 and October 7, 1996 orders in MPSC Case No. U-10138 requiring compliance with the MPSC's previous orders in U-10138. This compliance will include conformance with the implementation schedule ordered by the commission ~~This compliance shall include, but not be limited to, conversion of Ameritech's end offices to full 2-PIC intra-LATA dialing parity under the following schedule:~~

~~A. By November 23, 1996, 83% of the end offices shall be converted;~~

~~B. By December 1, 1996, 98% of the end offices shall be converted;~~

~~C. By December 7, 1996, 99% of the end offices shall be converted.~~

Dated: November 20, 1996

Judge William E. Collette
Ingham County Circuit Court Judge

A TRUE COPY
CLERK OF THE COURT
30th JUDICIAL CIRCUIT COURT

ORDER

Ameritech Michigan v MPSC, et al

Docket # 198706

L.C. # 10138

Clifford W. Taylor
Presiding Judge

Mark J. Cavanagh

Peter D. O'Connell

Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion for stay is GRANTED, and further proceedings are STAYED pending resolution of this appeal or further order of this Court.

STATE OF MICHIGAN COURT OF APPEALS

A true copy entered and certified by Ella Williams, Chief Clerk, on

December 4, 1996
Date

Ella Williams
Chief Clerk

EXCEPTIONS TO AMERITECH OPERATING COMPANIES TARIFF F.C.C. NO. 2 - SECTION 6

6. Switched Access Service

6.1 General (N)

6.1.3 Rate Categories

Equal Access Recovery Charge

The Equal Access Recovery Charge is a $0.04 per month charge that is assessed on each IntraLATA presubscribed access line. This charge provides for the recovery of costs associated with the implementation of IntraLATA Presubscription as described in Section 4.3 preceding.

The IntraLATA Presubscription Implementation Charge will become effective Janaury 1, 1996 and will be in effect for five years. (N)

6.2 Provision and Description of Switched Access Service Feature Groups

6.2.3 Feature Group C (FGC) and Feature Group D (FGD)

When routed through an access tandem, only those valid NXX codes served by offices subtending the access tandem may be accessed /a/.

/a/ Pursuant to the M.P.S.C. Order dated December 20, 1990 in Case Nos. U-9004, 9006 and 9007, when routed from a GTE North, Inc., end office, for which GTE North, Inc. is the primary exchange carrier, and which toll homes on a Michigan Bell Telephone Company (MBT)access tandem, those valid NXX codes served by end offices subtending the access tandem as well as those valid NXX codes served by end offices subtending other access tandems within the LATA may be accessed. When completion of these calls requires MBT to route through a second access tandem, an additional local transport termination charge will apply. When routed through both a MBT access tandem and a GTE North, Inc. access tandem only one half of this additional local transport termination charge will apply.

file
11104

STATE OF MICHIGAN
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the Telecommunications Act of 1996.	))))	Case No. U-11104

MICHIGAN PUBLIC SERVICE COMMISSION
FILED
JAN - 8 1997

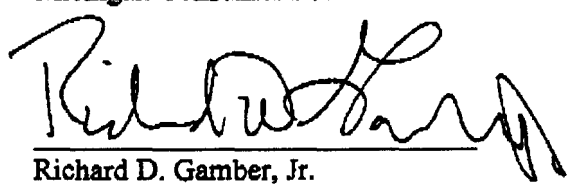
NOTICE OF APPEARANCE

Please be advised that Kathleen F. O'Reilly is serving as counsel to the Michigan Consumer Federation in the above-captioned matter. Copies of pleadings and correspondence should be directed to her at the following address:

Kathleen O'Reilly
Attorney at Law
414 "A" Street, Southeast
Washington, DC 20003
Tel: 202.543.5068
Fax: 202.547.5784

Respectfully submitted,

Michigan Consumer Federation



Richard D. Gamber, Jr.
Executive Director
Michigan Consumer Federation
115 W. Allegan, Suite 500
Lansing, MI 48933

Dated: January 8, 1997

STATE OF MICHIGAN
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the Telecommunications Act of 1996.	)))))	Case No. U-11104

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

The undersigned, being first duly sworn, deposes and states that he served papers as follows:

1. Document served: Notice of Appearance of Kathleen O'Reilly, attorney for the Michigan Consumer Federation in Case No. U-11104.
2. Served upon: See Attached List
3. Method of service: Telephone Facsimile
4. Date served: January 8, 1996

Richard D. Gamber, Jr.

Subscribed and sworn to before me this 8th day of January, 1997.

Nancy W. Haynes, Notary Public
Ingham County, Michigan
My Commission Expires: September 20, 1997

SERVICE LIST

MPSC CASE NO. U-11104

Roderick S. Coy
Stewart A. Binke
Clark Hill, PLC
200 N. Capitol Avenue, Suite 600
Lansing, MI 48933
Representing Teleport
Fax: 517-484-1248

Albert Ernst
Dykema Gossett
800 Michigan National Tower
Lansing, MI 48933
Representing MCI
Fax: 517-374-9191

David Voges
Assistant Attorney General
6545 Mercantile Way, Suite 15
Lansing, MI 48911
Representing MPSC Staff
Fax: 517-334-7655

Norman Witte
115 W. Allegan
Lansing, MI 48933
Representing WorldCom
Fax: 517-485-0187

Orjiakor N. Isiogu
Assistant Attorney General
Special Litigation Division
P.O. Box 30212
Lansing, MI 48909
Representing Michigan Attorney General
Fax: 517-373-9550

Harvey J. Messing
Sherri A. Wellman
Loomis, Ewart, Parsley, Davis & Gotting, PC
232 S. Capitol Ave., Suite 1000
Lansing, MI 48933
Representing Climax Telephone Company
Fax: 517-482-7227

Todd J. Stein
Brooks Fiber Communications
2855 Oak Industrial Drive, NE
Grand Rapids, MI, 49506
Representing Brooks Fiber
Fax: 616-224-5108

Richard D. Gamber, Jr.
Michigan Consumer Federation
115 W. Allegan, Suite 500
Lansing, MI 48933
Representing Michigan Consumer Federation
Fax: 517-487-6002

Glen A. Schmiege
Mark J. Burzych
Foster, Swift, Collins & Smith
313 South Washington Square
Lansing, MI 48933
Representing MECA
Fax: 517-371-8200

Richard P. Kowalewski
Sprint Communications Company L.P.
8140 Ward Parkway, 5E
Kansas City, MO 64114
Representing Sprint
Fax: 913-624-5681

David E. Marvin
Fraser, Trebilcock, Davis and Foster, PC
1000 Michigan National Tower
Lansing, MI 48933
Representing MCTA
Fax: 517-482-0887

Andrew O. Isar
Telecommunications Resellers Assn.
4312 92nd Ave., N.W.
P.O. Box 2461
Gig Harbor, WA 98335
Representing Telecom. Resellers
Fax: 206-265-3212

Joan Marsh
AT&T Communications, Inc.
4660 S. Hagadorn Rd., 6th Fl.
East Lansing, MI 48823
Representing AT&T
Fax: 312-230-8210

Timothy P. Collins
Continental Cablevision, Inc.
28500 Northwestern Hwy., Suite 203
Southfield, MI 48076
Representing Continental Telecommunications
Fax: 810-304-1890

Katherine E. Brown
U.S. Department of Justice
Antitrust Division
555 4th Street, N.W.
Washington, DC 20001
Representing U.S. Department of Justice
Fax: 202-514-6381

Gayle Teicher
Federal Communications Commission
Policy Division, Common Carrier Bureau
1919 M Street, N.W., Room 544
Washington, DC 20554
Representing FCC
Fax: 202-418-1413

Craig A. Anderson
Ameritech Michigan
444 Michigan Avenue, Room 1750
Detroit, MI 48226
Representing Ameritech Michigan
Fax: 313-496-9326

Linda L. Oliver
Hogan & Hartson LLP
555 Thirteenth Street, N.W.
Washington, DC 20004
Representing CompTel
Fax: 202-637-5910

Richard C. Gould
Phone Michigan
4565 Wilson Avenue
Grandville, MI 49418
Representing BRE Communications
Fax: 616-224-1609

from TALA corr

10

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

STANLEY D. STEINBORN
Deputy Attorney General

P.O. Box 30212
LANSING, MICHIGAN 48909

FRANK J. KELLEY
ATTORNEY GENERAL

January 9, 1997

MICHIGAN PUBLIC SERVICE COMMISSION
FILED
JAN - 9 1997

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

Dear Ms. Wideman:

RE: Commission's Own Motion, Case No. U-11104

Enclosed for filing in the above matter is the "Attorney General's Response to Ameritech Michigan's Submission of Information," together with Proof of Service upon all parties.

Very truly yours,

Ofjakor N. Isiogu
Assistant Attorney General
Special Litigation Division
(517) 373-1123

ONI:leg
Enc.
c: George Shankler, ALJ
All Parties
C:\ocs\U-11104 Cover Letter

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the Telecommunications Act of 1996

Case No. U-11104

ATTORNEY GENERAL'S RESPONSE TO AMERITECH MICHIGAN'S SUBMISSION OF INFORMATION

FRANK J. KELLEY
Attorney General

Orjiakor N. Isiogu (P42788)
Assistant Attorney General
Special Litigation Division
P.O. Box 30212
Lansing, MI 48909
(517) 373-1123

Dated: January 9, 1997

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the Telecommunications Act of 1996

Case No. U-11104

ATTORNEY GENERAL'S RESPONSE TO AMERITECH MICHIGAN'S SUBMISSION OF INFORMATION

Attorney General Frank J. Kelley hereby files the following response to Ameritech Michigan's December 16, 1996 Submission of Information. The Attorney General makes this filing pursuant to the Michigan Public Service Commission's (MPSC) August 28, 1996 Order Establishing Procedures in the above-captioned case. In support of his response, the Attorney General states as follows:

1. In its December 16, 1996 Submission of Information, Ameritech Michigan asserts that with that filing it "is in compliance with all the requirements of the competitive check list in Section 271(b) (sic) of the Telecommunications Act of 1996." The Attorney General disagrees with Ameritech Michigan's assertion.

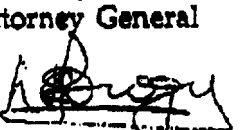
2. In his December 19, 1996 Response to Ameritech Michigan's compliance filing and Request for Approval of Plan on IntraLATA Toll Dialing Parity, the Attorney General indicated his position that Ameritech Michigan was not in compliance with the Section 271 of the Federal Telecommunications Act (FTA) for reasons which include the Company's failure to comply with the MPSC's orders on intraLATA toll dialing parity. The Attorney General's position remains

the same and he incorporates by reference and attaches his December 19, 1996 filing with this response as Attachment A.

3. While the Attorney General believes that Ameritech Michigan should eventually be allowed to join the ranks of interLATA service providers, he however believes that it is imperative that the local telecommunications market is not sacrificed in the effort to gain new entrants into the long distance market. Accordingly, the Attorney General believes that it is important for the MPSC to clearly indicate to Ameritech Michigan that anything less than full compliance with the Commission's schedule of implementation for intraLATA dialing parity constitutes a lack of compliance with the FTA's competitive checklist.

Respectfully submitted,

FRANK J. KELLEY
Attorney General



Orjiakor N. Isiogu (P42788)
Assistant Attorney General
Special Litigation Division
P.O. Box 30212
Lansing, MI 48909
(517) 373-1123

Dated: January 9, 1996